

Executive Summary – Enforcement Matter – Case No. 50487
Linde Gas North America LLC
RN103080487
Docket No. 2015-0685-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Linde Gas Clear Lake Plant, 9502 Bayport Boulevard, Suite A, Pasadena, Harris County

Type of Operation:

Industrial gas manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 19, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$31,200

Amount Deferred for Expedited Settlement: \$6,240

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$24,960

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 27, 2015

Date(s) of NOE(s): April 29, 2015

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Linde Gas North America LLC
RN103080487
Docket No. 2015-0685-AIR-E

Violation Information

1. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the carbon monoxide ("CO") emissions rate of 0.03 ton per year ("tpy") based on a rolling 12-month period for the Start-up Eductor MJ-151, Emission Point Number ("EPN") 51MJ151, for the 12-month periods ending in December 2011 through August 2012, resulting in the unauthorized release of 0.01 ton of CO [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 01329, Special Terms and Conditions ("STC") No. 12, and New Source Review ("NSR") Permit No. 4056, Special Conditions ("SC") No. 1].
2. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the nitrogen oxides ("NOx") emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-151, EPN 51MJ151, for the 12-month periods ending in December 2011 through September 2012, resulting in the unauthorized release of 0.02 ton of NOx [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].
3. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the NOx emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-152, EPN 51MJ152, for the 12-month period ending in August 2012, resulting in the unauthorized release of 0.01 ton of NOx [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].
4. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the CO emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-152, EPN 51MJ152, for the 12-month period ending in August 2012, resulting in the unauthorized release of 0.01 ton of CO [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].
5. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the CO emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-153, EPN 51MJ153, for the 12-month periods ending in September 2011 through August 2012, resulting in the unauthorized release of 0.02 ton of CO [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].
6. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the NOx emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-153, EPN 51MJ153, for the 12-month periods ending in September 2011

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Linde Gas North America LLC
RN103080487
Docket No. 2015-0685-AIR-E

through August 2012, resulting in the unauthorized release of 0.04 ton of NO_x [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].

7. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the CO emissions rate of 0.01 tpy based on a rolling 12-month period for the MSS Recycle Carbon Dioxide Compression System, EPN Maintenance, Start-up, and Shutdown-RCO₂, for the 12-month periods ending in August 2012 through November 2012 and January 2013 through March 2013, resulting in the unauthorized release of 0.02 ton of CO [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].

8. Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the sulfur dioxide ("SO₂") emissions rate of 0.01 tpy based on a rolling 12-month period for the Maintenance, Start-up, and Shutdown Flare MN-157, EPN 51MN157ST, for the 12-month periods ending in June 2011 through March 2013, resulting in the unauthorized release of 0.39 ton of SO₂ [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On August 1, 2014, the Respondent submitted an application to amend NSR Permit No. 4056 to increase the amount of authorized emissions for Start-up Eductor MJ-151, EPN 51MJ151; Start-up Eductor MJ-152, EPN 51MJ152; Start-up Eductor MJ-153, EPN 51MJ153; and Maintenance, Start-up, and Shutdown Flare MN-157, EPN 51MN157ST.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, implement measures and/or procedures to ensure compliance with the CO emissions rate for EPN Maintenance, Start-up, and Shutdown-RCO₂;
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the NSR permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days, submit written certification demonstrating compliance with a.; and

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Docket No. 2015-0685-AIR-E

d. Within 180 days, submit written certification that either the amendment to NSR Permit No. 4056 has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Jake Leavins, Head of Houston Hyco, Linde Gas North America LLC, 9502 Bayport Boulevard, Pasadena, Texas 77507
Richard McFall, Environmental Manager, Linde Gas North America LLC, 9502 Bayport Boulevard, Pasadena, Texas 77507
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	4-May-2015	Screening	6-May-2015	EPA Due	
	PCW	20-Nov-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Linde Gas North America LLC
Reg. Ent. Ref. No.	RN103080487
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION	
Enf./Case ID No.	50487
Docket No.	2015-0685-AIR-E
Media Program(s)	Air
Multi-Media	
No. of Violations	1
Order Type	1660
Government/Non-Profit	No
Enf. Coordinator	Amancio R. Gutierrez
EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0
Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History 56.0% Enhancement **Subtotals 2, 3, & 7** \$2,800

Notes Enhancement for three NOV's with same/similar violations, one NOV with dissimilar violations, and two orders containing a denial of liability. Reduction for one notice of intent to conduct an audit.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$2,377
Estimated Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$7,800

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$7,800

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$7,800

DEFERRAL 20.0% Reduction **Adjustment** -\$1,560

Reduces the Final Assessed Penalty by the Indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$6,240

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 2 (September 2002)

Case ID No. 50487

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103080487

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 56%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same/similar violations, one NOV with dissimilar violations, and two orders containing a denial of liability. Reduction for one notice of intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 56%

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 2 (September 2002)

Case ID No. 50487

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103080487

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit No. 01329, Special Terms and Conditions No. 12, and New Source Review Permit No. 4056, Special Conditions No. 1

Violation Description

Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the sulfur dioxide ("SO2") emissions rate of 0.01 ton per year based on a rolling 12-month period for the Maintenance, Start-up, and Shutdown Flare MN-157, Emission Point Number ("EPN") 51MN157ST, for the 12-month periods ending in June 2011 through March 2013, resulting in the unauthorized release of 0.39 ton of SO2.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

669 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$5,000

Two annual events are recommended for the period of non-compliance from June 1, 2011 through March 31, 2013.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,377

Violation Final Penalty Total \$7,800

This violation Final Assessed Penalty (adjusted for limits) \$7,800

Economic Benefit Worksheet

Respondent Linde Gas North America LLC
Case ID No. 50487
Reg. Ent. Reference No. RN103080487
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	1-Jun-2011	1-Mar-2016	4.75	\$2,377	n/a	\$2,377

Notes for DELAYED costs

Estimated cost to obtain an amendment for NSR Permit No. 4056 to increase the amount of authorized emissions for Start-up Eductor MJ-151, EPN 51MJ151; Start-up Eductor MJ-152, EPN 51MJ152; Start-up Eductor MJ-153, EPN 51MJ153, and Maintenance, Start-up, and Shutdown Flare MN-157, EPN 51MN157ST. The Date Required is the first date of non-compliance and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$2,377



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	4-May-2015	Screening	6-May-2015	EPA Due	
	PCW	20-Nov-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Linde Gas North America LLC		
Reg. Ent. Ref. No.	RN103080487		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	50487	No. of Violations	4
Docket No.	2015-0685-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amancio R. Gutierrez
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **56.0%** Enhancement **Subtotals 2, 3, & 7** **\$8,400**

Notes Enhancement for three NOV's with same/similar violations, one NOV with dissimilar violations, and two orders containing a denial of liability. Reduction for one notice of intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$358**
Estimated Cost of Compliance **\$2,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$23,400**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$23,400**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$23,400**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,680**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$18,720**

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 4 (April 2014)

Case ID No. 50487

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103080487

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 56%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same/similar violations, one NOV with dissimilar violations, and two orders containing a denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 56%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 56%

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 4 (April 2014)

Case ID No. 50487

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103080487

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O1329, Special Terms and Conditions ("STC") No. 12, and New Source Review ("NSR") Permit No. 4056, Special Conditions ("SC") No. 1

Violation Description

Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the nitrogen oxides ("NOx") emissions rate of 0.03 ton per year ("tpy") and the carbon monoxide ("CO") emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-151, Emission Point Number ("EPN") 51MJ151, for the 12-month periods ending in December 2011 through September 2012, resulting in the unauthorized release of 0.02 ton of NOx and 0.01 ton of CO.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

304 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$3,750

One annual event is recommended for the period of non-compliance from December 1, 2011 through September 20, 2012.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,850

This violation Final Assessed Penalty (adjusted for limits) \$5,850

Economic Benefit Worksheet

Respondent Linde Gas North America LLC
Case ID No. 50487
Reg. Ent. Reference No. RN103080487
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1 of the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 4 (April 2014)

Case ID No. 50487

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103080487

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O1329, STC No. 12, and NSR Permit No. 4056, SC No. 1

Violation Description

Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the NOx emissions rate of 0.03 tpy and the CO emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-152, EPN 51MJ152, for the 12 month period ending in August 2012, resulting in the unauthorized release of 0.01 ton of NOx and 0.01 ton of CO.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	X
	single event	

Violation Base Penalty \$3,750

One annual event is recommended for the period of non-compliance from August 1, 2012 through August 31, 2012.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,850

This violation Final Assessed Penalty (adjusted for limits) \$5,850

Economic Benefit Worksheet

Respondent Linde Gas North America LLC

Case ID No. 50487

Reg. Ent. Reference No. RN103080487

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1 of the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Case ID No. 50487

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN103080487

PCW Revision March 26, 2014

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1

Violation Description

Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the NOx emissions rate of 0.03 tpy and the CO emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-153, EPN 51MJ153, for the 12-month periods ending in September 2011 through August 2012, resulting in the unauthorized release of 0.04 ton of NOx and 0.02 ton of CO.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$3,750

One annual event is recommended for the period of non-compliance from September 1, 2011 through August 31, 2012.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,850

This violation Final Assessed Penalty (adjusted for limits) \$5,850

Economic Benefit Worksheet

Respondent Linde Gas North America LLC
Case ID No. 50487
Reg. Ent. Reference No. RN103080487
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1 of the accompanying PCW.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 6-May-2015

Docket No. 2015-0685-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 4 (April 2014)

Case ID No. 50487

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103080487

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and (c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1

Violation Description

Failed to comply with annual emissions rates. Specifically, the Respondent exceeded the CO emissions rate of 0.01 tpy based on a rolling 12-month period for the Maintenance, Start-up, and Shutdown Recycle Carbon Dioxide Compression System, EPN MSS-RCO2, for the 12-month periods ending in August 2012 through November 2012 and January 2013 through March 2013, resulting in the unauthorized release of 0.02 ton of CO.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

210 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$3,750

One annual event is recommended for the periods of non-compliance from August 1, 2012 through November 30, 2012 and January 1, 2013 through March 31, 2013.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$358

Violation Final Penalty Total \$5,850

This violation Final Assessed Penalty (adjusted for limits) \$5,850

Economic Benefit Worksheet

Respondent Linde Gas North America LLC

Case ID No. 50487

Reg. Ent. Reference No. RN103080487

Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Aug-2012	1-Mar-2016	3.58	\$358	n/a	\$358

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures to ensure compliance with the CO emissions rate for EPN MSS-RCO2. The Date Required is the first date of non-compliance and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$358

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603335019, RN103080487, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN603335019, Linde Gas North America LLC	Classification:	SATISFACTORY	Rating:	4.82
Regulated Entity:	RN103080487, LINDE GAS CLEAR LAKE PLANT	Classification:	SATISFACTORY	Rating:	6.68
Complexity Points:	16	Repeat Violator:	NO		
CH Group:	05 - Chemical Manufacturing				
Location:	9502 BAYPORT BOULEVARD, SUITE A, PASADENA, TX 77507-1402, HARRIS COUNTY				
TCEQ Region:	REGION 12 - HOUSTON				

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 87184
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50391
AIR OPERATING PERMITS ACCOUNT NUMBER HGA002B
AIR NEW SOURCE PERMITS REGISTRATION 75613
AIR NEW SOURCE PERMITS REGISTRATION 78632
AIR NEW SOURCE PERMITS REGISTRATION 87621
AIR NEW SOURCE PERMITS REGISTRATION 117687
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 87184
POLLUTION PREVENTION PLANNING ID NUMBER P06862

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000052175
AIR OPERATING PERMITS PERMIT 1329
AIR NEW SOURCE PERMITS AFS NUM 4820101556
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HGA002B
AIR NEW SOURCE PERMITS PERMIT 4056
AIR NEW SOURCE PERMITS REGISTRATION 88450
STORMWATER PERMIT TXR05AK83
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HGA002B

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 05, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 05, 2010 to May 05, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Amancio R. Gutierrez

Phone: (512) 239-3921

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | |
|---|--|
| 1 | Effective Date: 02/20/2011 ADMINORDER 2010-1248-IHW-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(7)(ii)
Rqmt Prov: Permit Provision V.I.3.b.2 PERMIT
Description: Failure to have an Automatic Waste Feed Cut-Off system trip when the hazardous waste stream feed rate exceeded the permit limit.
Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(2)(i)(A)
Rqmt Prov: Permit Provision V.I.2.a PERMIT
Description: Failure to maintain the hazardous waste feed rate under the permit limit. |
| 2 | Effective Date: 08/13/2011 ADMINORDER 2011-0271-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: FOP No. O-01329, General Terms and Cond OP
Description: Failed to timely submit an ACC within 30 days after the end of the certification period. Specifically, the ACC for the period April 4, 2009 through April 3, 2010 was due May 3, 2010, but was not submitted until June 9, 2010 (37 days late).
Classification: Moderate |

Citation: 30 TAC Chapter 118 118.5

5C THSC Chapter 382 382.085(b)

Description: Failed to prepare and maintain an emission reduction plan within six months after any air contaminant specified in 30 TEX. ADMIN. CODE § 118.1 exceeds 100 tons per year. Specifically, carbon monoxide emissions were 448 tons in 2008 and 188 tons in 2009, but an emission reduction plan was not prepared.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01329, General Terms and Cond OP

Description: Failed to report a deviation. Specifically, the deviation for failing to prepare and maintain an emissions reduction plan by June 30, 2009 was not included on the deviation report submitted for the April 4, 2009 through October 3, 2009 deviation reporting period.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	May 12, 2011	(919154)
Item 2	August 29, 2011	(942938)
Item 3	January 24, 2012	(970825)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 05/28/2014 (1152623)	CN603335019
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(i)(B)(ii) 5C THSC Chapter 382 382.085(b) Special Condition No. 24A PERMIT Special Terms and Conditions No. 12 OP	
	Description: Failure to maintain net heating value of the gas being combusted for Flare MN-157	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition No. 3 PERMIT Special Terms and Conditions No. 12 OP	
	Description: Failure to comply with the rolling 12-month carbon monoxide (CO) production limit.	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition No. 24B PERMIT Special Terms and Conditions No. 12 OP	
	Description: Failure to perform the required weekly calibrations on the continuous monitoring device for Flare MN-157	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Part 60, Subpart A 60.18(c)(4)(i) 5C THSC Chapter 382 382.085(b) Special Terms and Conditions 12 OP	
	Description: Failure to maintain exit velocity of Flare MN-157 less than 60 feet per second (fps)	
2	Date: 09/04/2014 (1190504)	CN603335019
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition No. 1 PERMIT Special Terms and Conditions No. 12 OP	
	Description: The Respondent exceeded the permitted emissions rate of 0.03 tons/year of carbon monoxide based on a rolling 12-month period for Reactor R-33, EPN	

51MJ151, for the 12-month periods ending in December 2011 to to August 2012, resulting in 0.01 tons of unauthorized carbon monoxide (Category A12i(6)).

- 3 Date: 11/13/2014 (1193352) CN603335019
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 8 PERMIT
Special Terms and Condition 12 OP
Description: Flare (EPN: 51MN157ST) did not meet the 40 CFR 60.18 requirements during normal operations. (Category C4)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 24(A) PERMIT
Special Terms and Condition 12 OP
Description: Flare (EPN: 51MN157ST) did not meet the 40 CFR 60.18 requirements during maintenance, startup, and shutdown (MSS) activities. (Category C4)
- 4 Date: 11/19/2014 (1204602) CN603335019
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)
30 TAC Chapter 335, SubChapter E 335.112(a)(9)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.191(a)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.192(a)
II-C-2 PERMIT
Description: RCRA Tank certification was not adequately done.

F. Environmental audits:

Notice of Intent Date: 01/20/2014 (1145627)
No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LINDE GAS NORTH AMERICA
LLC
RN103080487

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2015-0685-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Linde Gas North America LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a industrial gas manufacturing plant located at 9502 Bayport Boulevard, Suite A in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 4, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-One Thousand Two Hundred Dollars (\$31,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Four Thousand Nine

Hundred Sixty Dollars (\$24,960) of the administrative penalty and Six Thousand Two Hundred Forty Dollars (\$6,240) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on August 1, 2014, the Respondent submitted an application to amend New Source Review ("NSR") Permit No. 4056 to increase the amount of authorized emissions for Start-up Eductor MJ-151, Emission Point Number ("EPN") 51MJ151; Start-up Eductor MJ-152, EPN 51MJ152; Start-up Eductor MJ-153, EPN 51MJ153; and Maintenance, Start-up, and Shutdown ("MSS") Flare MN-157, EPN 51MN157ST.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. 01329, Special Terms and Conditions ("STC") No. 12, and NSR Permit No. 4056, Special Conditions ("SC") No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the carbon monoxide ("CO") emissions rate of 0.03 ton per year ("tpy") based on a rolling 12-month period for the Start-up Eductor MJ-151, EPN 51MJ151, for the 12-month periods ending in December 2011 through August 2012, resulting in the unauthorized release of 0.01 ton of CO.

2. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the nitrogen oxides ("NOx") emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-151, EPN 51MJ151, for the 12-month periods ending in December 2011 through September 2012, resulting in the unauthorized release of 0.02 ton of NOx.
3. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the NOx emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-152, EPN 51MJ152, for the 12-month period ending in August 2012, resulting in the unauthorized release of 0.01 ton of NOx.
4. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the CO emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-152, EPN 51MJ152, for the 12-month period ending in August 2012, resulting in the unauthorized release of 0.01 ton of CO.
5. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the CO emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-153, EPN 51MJ153, for the 12-month periods ending in September 2011 through August 2012, resulting in the unauthorized release of 0.02 ton of CO.
6. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the NOx emissions rate of 0.03 tpy based on a rolling 12-month period for the Start-up Eductor MJ-153, EPN 51MJ153, for the 12-month periods ending in September 2011 through August 2012, resulting in the unauthorized release of 0.04 ton of NOx.
7. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the CO emissions rate of 0.01 tpy based on a rolling 12-month period for the MSS Recycle Carbon Dioxide Compression System, EPN MSS-RCO2, for the 12-month periods ending in August 2012 through November 2012 and January 2013 through March 2013, resulting in the unauthorized release of 0.02 ton of CO.

8. Failed to comply with annual emissions rates, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and (c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01329, STC No. 12, and NSR Permit No. 4056, SC No. 1, as documented during a record review conducted on March 27, 2015. Specifically, the Respondent exceeded the sulfur dioxide ("SO₂") emissions rate of 0.01 tpy based on a rolling 12-month period for the MSS Flare MN-157, EPN 51MN157ST, for the 12-month periods ending in June 2011 through March 2013, resulting in the unauthorized release of 0.39 ton of SO₂.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Linde Gas North America LLC, Docket No. 2015-0685-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures and/or procedures to ensure compliance with the CO emissions rate for EPN MSS-RCO₂;
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the NSR permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.e., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance;

- d. Within 180 days after the effective date of this Agreed Order, submit written certification that either the amendment to NSR Permit No. 4056 has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.e., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance; and
- e. The certifications shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a

written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pam Morris
For the Executive Director

5/16/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Jake Leavins
Signature

12/22/2015
Date

JAKE LEAVINS
Name (Printed or typed)
Authorized Representative of
Linde Gas North America LLC

HEAD OF HOUSTON HYCO
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.